

REMARKS

In the outstanding official action, claim 1 was rejected under 35 USC 112 as being indefinite because when the radiation source is driven in the second mode, the delta current is different from the delta current of the first mode and should therefore be labeled as something other than I_{delta} . It was suggested in the Action that the prior amendment does not overcome this rejection since both the delta current in the first mode and the delta current in the second mode are labeled as I_{delta} when they are clearly different values. In response this rejection is respectfully traversed. Expanding upon the previously presented remarks on this issue it is apparent from the instant specification and claims that the term I_{delta} is a variable and is thus properly used for both occurrences. More particularly, it is described on page 8, line 29 of the instant specification, how the value of the delta current which is needed can be predicted, and in fact there are numerous mentions in the instant specification of the delta current assuming different values, such as $I_{\text{DELTA-1}}$ and $I_{\text{DELTA-2}}$ (see, for example, pages 5, 6 and 9 for specific references to the variable delta current assuming different values).

Thus, it is respectfully submitted to be clear and distinct to recite a delta current which is a variable, as in claim 1, wherein the delta current can assume two different values in two different

modes of operation. This argument is further supported by the subject matter of claim 3, which recites a change in the delta current, and further recites first and second values for the delta current.

It is thus respectfully submitted that the recitation of the term delta current as a variable is clear, definite and distinct, particularly when the fact that the delta current assumes different values is clearly described in the specification and recited in the claims. Accordingly, the same designation of I_{delta} may properly be used to define a variable which assumes different values, and the §112 rejection is respectfully submitted to be overcome.

On the merits, claims 2, 3, 5, 6, 9-11, 13 and 15 were deemed to be allowable, while claims 1, 4, 7, 12 and 14 were rejected under 35 USC 103(a) as being unpatentable over Burley in view of Everett, for the reasons of record.

In response, it is respectfully submitted that Burley and Everett are directed to solving two different problems so that it would not be apparent to one of ordinary skill in the art to combine their teachings absent the benefit of impermissible hindsight derived from the instant disclosure. Thus, Burley is expressly directed to peak optical power control to compensate for variations in a laser's peak power output due to changes in slope efficiency, whereas Everett, on the contrary, is directed to

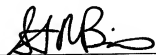
producing a binary light signal of constant average power and a technique for using a feedback loop to keep the average optical output power constant. Accordingly, one of ordinary skill in the art, absent the benefit of impermissible hindsight, would not find it apparent to combine these teachings since they are directed to two substantially different problems and situations.

Furthermore, even if it is assumed for the sake of argument that the two references are properly combinable, it is respectfully submitted that the subject matter of the rejected claims is neither shown nor suggested thereby. Specifically, it is admitted in the Action that Burley does not disclose determining the delta current based on the threshold current using a function F and calibrating the function F by determining the radiation power and delta current at different temperatures, resulting in different threshold currents. It is respectfully submitted that Everett does not disclose the foregoing limitations, such that the combination of Burley and Everett does not render the rejected claims obvious.

In view of the foregoing, it is respectfully submitted that claim 1 fully complies with the requirements of §112, and that all of the currently-pending claims are clearly patentable distinguishable over the cited and applied art. Accordingly,

allowance of the instant application is respectfully submitted to be justified at the present time and favorable consideration is earnestly solicited.

Respectfully submitted,

By 

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